

APPEAL NO. 032235
FILED OCTOBER 7, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 23, 2003. The hearing officer determined that the _____, compensable injury of appellant (claimant) does not extend to the left shoulder and cervical spondylosis. The hearing officer also determined that claimant is not entitled to 13th quarter supplemental income benefits (SIBs) and that there was no carrier waiver. Claimant appealed only the determinations regarding SIBs entitlement and whether the injury extended to the left shoulder and cervical spondylosis. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

Claimant contended that he sustained a neck and shoulder injury in addition to the compensable upper extremity injury. We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We note that the fact that a carrier has preauthorized surgery does not mean that it cannot raise an issue regarding extent of injury. See Texas Workers' Compensation Commission Appeal No. 951930, decided December 28, 1995. Laches does not apply to bar carrier from raising extent of injury.

Claimant asserted that he was unable to work during the qualifying period due to his recovery from surgery. However, because the surgery was for conditions that are not part of the compensable injury, we conclude that the hearing officer did not err in determining that claimant is not entitled to SIBs. We conclude that the hearing officer's determinations regarding extent of injury and SIBs entitlement are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **UTICA NATIONAL INSURANCE COMPANY OF TEXAS** and the name and address of its registered agent for service of process is

**RICHARD A. MAYER
11910 GREENVILLE AVENUE, SUITE 600
DALLAS, TEXAS 75243-9932.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Margaret L. Turner
Appeals Judge